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ABSTRACT

The relationship between the state legislature and governance in higher education is considered. Among the significant issues facing legislators and educators is the demand for comparable data, which can be useful for decision-making or can be misused to fit the views or objectives of a particular group. Issues about which there are many questions needing resolution are the following: state support of private higher education, providing access to education to adult learners, the effort toward centralization of educational activities through the formation of coordinating boards, and the move to regionalism. It is suggested that as costs go up, enrollments are leveling off, and money is scarce, institutional and legislative leaders are looking to regional planning, as opposed to statewide planning or absolute institutional autonomy as a better use of limited funds. It is proposed that regional approach within a state is as important as the regional approach at the interstate level. Coordination can help colleges to avoid wasteful duplication and harmful competition. The issue of regionalism is closely related to the role of the statewide coordinating group, which has to relate to both the governor and legislature on the one hand and to the educational establishment on the other. It is suggested that politics inevitably play a significant role in the decision-making arena of higher education. It is suggested that the increasing legislative demand for accountability is not interference by the government, nor is responsible budget cutting. It is proposed that interference occurs when the legislature impinges on the academic integrity of the institutions by attempting to make decisions about governance, institutional management, academic policy, and other institutional functions. (SW)

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THE STATE LEGISLATIVE PROCESS: ITS EFFECT ON THE GOVERNANCE OF HIGHER EDUCATION

Donald R. McNeil

After more than twenty years in academic settings, with continued relationships with legislators in four states, I recently stopped feeding at the public trough and decided to sample the wares in that wildly exciting, anxiety-begetting world of free enterprise. To paraphrase a famous general, old university administrators never die, they just fade away and become consultants. So I assume that I am here to speak as an impartial outside observer with no longer an axe to grind.

Over the years I have gathered into a composite description, portraits of both legislators and educators. They go something like this. Everyone knows that legislators are politicians who would do anything to get elected; that they are ambitious, conceited, ruthless, deceptive, devious, and vain; that they are more concerned about image than substance; that they are meddling, lazy, compromising, and, at times, stupid.

On the other hand, everyone knows that educators are politicians who would do anything to protect their turfs; that they are lazy, selfish, overpaid and arrogant; that they are bureaucratic, uncaring, dull, and, at times, stupid.

Well, we all know that those portraits are outrageously overdrawn. But I'm afraid we also know that there is enough truth in some of the depictions to make us a little uncomfortable. So let me go back a way and look at the dynamic tensions between legislators and educators in a more realistic and historical context.

Not too many years ago, there was a widely held image of the campus as an Ivory Tower. The inhabitants of these venerable institutions were viewed as absent-minded, wooly-headed eccentrics, comfortably isolated and insulated from the harsh realities of life and the competition of the marketplace. Indeed, the most damning judgment of all was that none of them had ever had to meet a payroll.

If this idyllic sanctuary of scholarship ever did exist, I am convinced that it has disappeared from the American academic scene. The decline of the Ivory Tower began in the late fifties, and its fall came about in the mid-sixties. The exuberant growth and burgeoning enrollments in higher education that swept the country in the late fifties and early sixties stripped away the isolation and

the tranquillity of our campuses. Suddenly, a college education was the in thing available, for the first time, to thousands who had once aspired only to a high-school diploma. The baccalaureate became, almost overnight, an instant union card, guaranteeing young Americans an entree into the wonderful world of middle-class success.

And the educators, blinking modestly in the spotlight, realized new respectability and status. Their advice was sought; their words were heeded; they became the gurus of our day.

It was America's Golden Age of education, those few and fast moving years; they were heady, exhilarating, and now, of course, the source of overwhelming nostalgia.

The Vietnam War sounded the death knell to that one brief shining moment that was their educational Camelot. Their once quiet, sheltered campuses became the setting for dissension, turmoil, physical violence, and even, death. Collegiality gave way to confrontation; rationality was drowned out by rhetoric; academic traditions were scorned; the educational verities mocked. And the academic idols were toppled, as if they had feet of clay. The cry from the Sproul Plazas across the nation rang loud and all too clear: "The academic emperor has no clothes!"

Caught up in the day-to-day turmoil and bitter debate, many people, both educators and students, failed to perceive clearly the ultimate price which was to be paid, the seeds of enmity that were being sowed in our society. That price was a widespread disillusionment with higher education, and all that it purported to be, all that it boasted it had and would contribute to the welfare of our country and its citizens. The public was outraged by the physical violence, the destruction of campuses, the outrageous flouting of authority, and the unending assaults on a comfortable status quo.

Stripped of their confidence, their prestige, and many of their pretensions, higher education institutions became a major target of our legislatures. If educators could not put their own houses in order, the elected representatives, acting on behalf of the outraged parents and taxpayers, were prepared, and were often more than willing, to do so.

A faltering economy provided impetus for this backlash, as did the growing demands for attention to and funding of *other* social priorities. The commitment to educational quality and equal access no longer captured the hearts, minds, and votes of the budget makers. The watchwords became accountability, program budgeting, program review, statistical justification, and cost-effectiveness. The day of Quantitative Measurement had arrived with a

vengeance. More and more, bureaucratic practices and procedures supplanted academic policy decisions. And in increasing numbers, states turned to the concept of statewide planning and coordination in an attempt to regularize the future growth and development of higher education.

Against this backdrop then, let me talk about some of the significant issues that will face both legislators and educators from now into the 1980's and suggest some caveats for both.

The first of these issues revolves around the quest for sound, comparable data. Everyone is now turning to information systems. Educators are asked to justify and rejustify their yearly requests for new programs, new facilities, new research projects, new staff, and new money. And more and more, you hear people on both sides of the negotiating table demanding *hard* data to find *hard* answers to these *hard* questions.

I have no quarrel with legislators who are asking these questions; educators *should* have the answers. I have no quarrel with information systems, as such; they will help obtain these answers.

What concerns me about this issue of information is the potential master-slave relationship. If educators are the masters of their information systems, they can do marvelous and wonderful things: use them as an excellent management tool to promote beneficial self-analysis; use them to respond to the demand for accountability from those of you who grant the money; use them to enhance the credibility with the public with better explanations of programs and accomplishments.

If, however, educators become slaves to the information systems, (especially as the facts are interpreted sometimes by legislators), the results may spell catastrophe. Misuse of the data can sap their vitality and destroy their true purpose. If cost becomes the *sole* basis for decisions of academic policy and programming, a sterile centralization and standardization can result; *good* education could well become *efficient* education. Some legislators have not learned yet to distrust some of the statistics themselves because the data may simply not be comparable. If, for example, you compare a program at a wealthy, elitist-oriented school, with another school that spends a lot of money and staff energy in remedial work or with the disadvantaged, you might conclude that the latter school's cost per student is too high. To look merely at cost figures alone without looking at the objectives, the methods, and the target audiences would be disastrous. Furthermore, colleges and universities often allocate indirect costs and support services in quite different ways, and that complicates the problem of a lay legislator looking at the cold, *hard* data in an information system and comparing *facts*. The trouble is that too often legislators and educators use the pieces of data that support only their respective positions.

I would merely remind educators that it would be foolish to balk at the idea of acquiring and systematizing data, especially data that is comparable and does stretch out over a period of years. It can be used intelligently and with great benefit. Too often, educators are fearful of the data being distorted to fit the view of a group with an objectionable objective in mind, and of course among those feared groups are the legislative committees.

But even beyond these earthy considerations, I would urge legislators and educators not to seek salvation in statistics alone. I hold no brief for so-called academic inefficiency though there will be some of that, just as there is inefficiency in our corporations, our court systems, our military, and, yes, even in our legislatures.

I do plead the case for quality and a philosophic commitment to the educational tasks to be done. These tasks often cannot be measured in the computer. You cannot quantify learning. The product of the mind simply cannot be placed on a balance sheet.

The second issue is that of state support of private higher education. Rather, I should say *direct* state support, since substantial indirect support is provided through student-aid programs, both at the federal and state levels. Here again, the educators and the legislators face off against each other. Leaving aside the constitutional barriers, which may be insurmountable in some states, I would remind you that with state money there inevitably goes state control. Are our private colleges and universities willing to pay the price? And, if so, just how high a price? We frequently point to our private institutions as an invaluable source of diversity and innovation; will state support foster these qualities or will it discourage them? Should the state support ***all*** private institutions equally, or should the smaller and weaker members of the group be cast afloat to sink or swim. And, finally, do our private colleges and universities truly need state support on a long-term and permanent basis? And, if so, is it to be justified on the basis of need, enrollments, efficiency, or what?

Can we find ways to aid those institutions which can perform state-held objectives (vocational education, for example) and still allow them their autonomy? Could we, for example, set up contracts that would let private institutions take on public assignments without interference by the state? And with the support of the public institutions, society will be the stronger if the capacity of our private institutions is added to the total educational resource base of the state. Yet most decisions in this area are made out of sheer prejudice, both for and against the idea of support for private colleges. Turfdom, one's own college background, and vested interests usually dictate the final decision.

The third issue has to do with so-called adult education. For many years adult education was treated as the stepchild of the educational establishment. Like

most embarrassing offspring, however, it would not go away; it just hung around waiting to become a full-fledged issue, and it is now just that.

I would argue that these and other questions are the trees, not the forest. The real issue here is our commitment to providing access and opportunity to citizens who missed the educational boat or who want to get back on board. Is a college education only for 18-24 year olds with the traditional preparatory background? Is the man or woman who just wandered accidentally into a career or an occupation out of luck if he or she wants to change? Are all those millions of people stranded in that great cultural wasteland we call television doomed to permanent exile?

There are some very sound arguments, pragmatic arguments if you will, for expanding the opportunity for adult education. It may well be the answer to the steady-state enrollment that is rapidly approaching. It may be a large part of the solution to job obsolescence in an increasingly technological world. And I believe it can also be the solution, and perhaps the only solution, to the immediate and pressing problems of poverty, discrimination, and blighted opportunity.

The questions for both educators and legislators are legion. How do we approach the education of this vast adult population? What opportunities or handicaps will we place before our citizens? How do we organize this venture? To which institutions do we allocate which functions? How much do we charge for which offerings? How extensively should we commit ourselves to the support of education for fun, relaxation, self-improvement, and cultural awareness? These are all questions demanding answers. Bureaucracies at each level, educational, legislative, and gubernatorial, should quit waffling. The problem will not go away. The demands of the older age groups, especially, are increasing. Even if some institutions and state legislatures make the decision that state support should *not* go to part-time or older students or for an off-campus delivery system, at least, that would be a decision.

We must also come to a decision about two closely related problems that have plagued adult education for many years. One is adult education overkill, the situation in which several institutions duplicate each others' programs and services in the same area. This misguided competition is academic inefficiency at its worse. The other problem is one of neglect, which leaves entire groups of potential students with few, and in some cases no, adult education opportunities. It will be up to the educators to present some comprehensive plans; it will be up to the legislators to understand the problem and then set sensible policies.

The problem is complicated by the great technological advances that will alter the way we learn for the rest of this century. With the advent of the videodisc,

the mini-computer, the automated gadgets that give you everything through your home television set, how are you educators and legislators going to handle that? Traditional problems of admissions, credit, tenure, copyright, and a host of others, will soon add fantastic dimensions to those problems when educators and legislators wake up to the fact that technology has passed them by. The fifty-minute lecture is going to have stiff competition in the world of the future. My own guess is that there will be stiff competition, too, between educators who will not embrace the new individualized, self-paced, at-home learning systems and legislators who will see it as a cost-effective and quality method to educate the masses. But that's a whole other article.

The fourth issue illustrates the irony with which all of us must learn to live, for irony is truly one of the hallmarks of both the legislative and the academic world. All through the sixties, the move on the part of legislatures was to centralize educational activities through various forms of coordinating councils or unified systems of higher education. While practically no state went the ultimate route of consolidating everything, there was a feeling abroad in the land that excessive competition and duplication and special appeals to legislatures from single campuses had to be brought under control. So a modified centralization took place, and by the seventies practically every state had a coordinating body of some sort.

This brought loud cries of protest about loss of automony from the institutions (some of whom were, themselves, statewide systems and heard protests about violation of institutional autonomy from their own campuses).

The protests had some effect. No coordinating agency went too far, and the smart ones picked their battlegrounds carefully. And gradually the coordinating bodies came to appreciate the plight of their academic institutions, and, in this interaction, relative peace was made in most states.

So now against that state framework of coordination and planning comes the fifth issue, regionalism. The irony is that the proponents of centralization are often now the very ones advocating decentralizing education to the regional level (which may be centralization from the campus viewpoint if you have been left autonomous to do what you want). The reason is that we never did straighten out jurisdictional matters to any great degree; we never made the educational system a single unit with power to enforce rules, program changes, or whatever. I believe that we would never want such a tyranny from the top. I would not want all education invested in a single board or person or group.

Here and there, different jurisdictions tried to work together voluntarily. Consortia were created. Voluntary agreements for shared facilities, libraries, faculties, and students made modest beginnings. Public and private universities, and community colleges, and even on occasion proprietary schools, worked

together in limited fashion. There was no true regional planning for the benefit of the citizens of an area; there was no willingness to yield real autonomy for the common good; there were no methods or means or powers of enforcement when someone did not stay within the guidelines or rules.

So now as costs go up, inflation continues, enrollments are leveling off, and money is scarce, institutional and legislative leaders are looking to regional planning, as opposed to statewide planning or absolute institutional autonomy, as a better use of limited funds. It is true that the larger and more complicated the state the more need there is for a regional approach.

The regional approach within a state is as important as the regional approach fostered by WICHE at the interstate level. And I believe this intra-state regionalism can be carried out without hampering either statewide coordinating bodies or statewide university systems.

No doubt we are encouraged in this view by the harsh reality of no-growth budgets and shrinking educational dollars. But I would also like to think that we are motivated by the realization that autonomy and uniqueness are not demonstrated when three institutions offer the same program at the same time in the same town. It simply does not make good sense, academically or economically, for our colleges to engage in this wasteful duplication and harmful competition. Legislators are very aware of these conditions, and educators need to take steps to get their houses in order, or else.

The time has come for our public and private institutions to give more than lip service to the concept of mutual cooperation for the benefit of our students and our society. We must coordinate our efforts and our resources, we must pool our strengths, to provide the best education possible to the most people possible at the minimum cost possible. It will take the cooperation of both the legislatures and the institutions to make progress in this highly volatile area.

There will be difficulties (when are there not?): resistance, jurisdictional squabbling, and cries of outrage and even anguish. But regional cooperation can and should be accomplished. With the prompting of legislators, whether it be gentle or very firm, regionalism can lead to more efficient, more broadly based education, and higher quality education.

The issue of regionalism is closely related to another issue that, in a sense, feeds on the regions: namely, the role of the statewide coordinating group, the state-level bureaucracy that varies so widely in powers, influence, and talents in the several states.

Should the statewide unit be the technical handmaiden of the legislature? The higher education tattletale? A policeman of our colleges and universities? An

enforcer for the mob? Or should it be the diplomatic spokesman for the higher education community? The staunch ally of administrators and faculty? The defender of collegiate faith? The mouthpiece for the profession?

It should be none of these, of course, exclusively. It should be all of these, perhaps, in part. I believe it can be spokesman, leader, confidant, referee, and independent entity. I hope the schizophrenic nature of its having to relate to both the governor and legislature on the one hand and to the educational establishment on the other, does not drive it to the brink.

Before I broach the final issue, let me make a personal comment or two about my past relations with legislators. My career has brought me into frequent and close association with legislators in a number of states around the country. These relationships have given me many pleasant memories, as well as a few scars. But on the whole, I must admit that I like legislators. Most whom I know work very hard at their job: they understand the issues; they vote their convictions. They also know numerous good stories and, for the most part, make good companions. Beyond that, I think there is a natural affinity between legislators and educators that comes from certain characteristics we share in common: both love to talk; both have egos larger than those of most folks; both share a passion for committees and meetings; and both play politics with zest, whether it is in the lounge of the faculty club or in the halls of the statehouse.

It is fortunate that educators and legislators do manage to get along fairly well together, since there is simply no way they can avoid each other. Certainly not when public higher education commands the single largest share of the taxpayers' dollars each year in many states. Certainly not when the largest capital investment is tied up in public educational facilities. And certainly not when such issues as adult education, regionalism, finance, and program control are centers of public debate and controversy and the subjects of pending legislation.

There is no escaping the fact that politics inevitably play a significant role in the decision-making arena of higher education. Legislators review budgets, approve new buildings and campuses, and set the level of spending, and at times confirm board appointments. But that is sufficient. No matter how amiable the relationship or how great their mutual respect, there is a point at which legislators move beyond legitimate involvement in educational affairs to unwarranted interference. I do not characterize the increasing legislative demands for accountability as interference; if the educators are as productive as they say, they should be able to demonstrate it convincingly. I do not characterize requests for data on students, facilities, programs, and plans as interference; if educators do not have this information, they should; if the legislature cannot obtain it, how can it possibly make sound educational decisions. And I do not characterize responsible budget cutting as interference.

In my view, involvement becomes interference when the legislature impinges on the academic integrity of the institutions: when decisions about governance, institutional management, academic policy, program planning, admission requirements, faculty duties, and other related issues are made not in the halls of ivy, but in the corridors of the legislature.

The trend in legislatures is to acquire qualified staff. As staff capacity increases, legislators and their assistants tend to believe that they know more than educators about education. They begin to nitpick; they have a position on almost every educational issue; they develop a fascination for the minutia of budgets; they pose questions of infinite variety and detail; they meddle in administrative matters and in the approval not only of academic policies, but also of new programs; they instruct the educational bureaucracy what to study, how to study it, and, at times, come perilously close to suggesting what the results of the study should be. In California, for example, we have seen the legislature trying to tell the University of California to promote faculty solely on the basis of teaching ability, reduce student fees (or risk losing millions in lab costs), report outside income, and consider changing research direction to areas that will have more social impact.

An Amusing Story: Several months ago, prompted in part by recent student protests, twenty-three legislators wrote to the Regents of the University urging them to move toward withdrawing the University of California's investments from companies that do business in South Africa. Shortly thereafter, forty-one of their fellow legislators wrote the Regents urging them to withdraw their investments in any companies doing business with the "Soviet Union, the People's Republic of China, Cuba, or the communist nations of Southeast Asia."

I do not minimize the serious ethical questions raised by this issue of investments, nor do I question the sincerity of those urging withdrawal. I only wish to report that a news article appeared shortly following the publication of the letters which revealed that 106 legislators, the Governor, and several constitutional officers participate in a retirement fund which holds some $15 million in investments in some of those same companies.

Some very well-intentioned legislators and their staffs believe that they are being supportive of higher education through this kind of involvement. But no matter how laudable their intentions, how sincere their interest, the end result can be (and too often is) greater political control of our institutions. I acknowledge that many times there is a fine line between legitimate legislative policy direction and legislative meddling. What we must do (together, not separately) is to examine that line constantly, talk about it candidly, move it one way or another at times, and thereby assure independence of appropriate decision-making powers to members of both establishments, the educational and the legislative.

I began my remarks with a reference to the decade of the sixties. Back then, one of the clearly enunciated objectives of some students, aided and abetted by some faculty, was to politicize the university, to make it responsive to the immediate political and social urgencies that confront our society. Against the dramatic background of those turbulent times, it was easy to perceive the clear and present danger which that objective posed. We resisted the efforts to politicize our institutions.

Today, in relatively quieter times, the danger of politicization appears to have receded. But do not be misled, it is ever present. It is difficult, even at times for educators, not to tinker with the machinery of our institutions. And to some legislators, it can be an irresistible temptation to which they yield in the name of political realities or of the public good.

I hope that Senator Hughes' earlier statement that the legislatures are the new *power centers* in higher education does *not* mean they will step beyond their policy and budgetary role. One of several power centers, *yes!* The dominant power center, *no!* Institutions of higher education do not lack for critics: in the eyes of the cost accountants or the management analysts, the university is not the model of modern management efficiency it should be. In the view of the activist, the university does not respond with the required alacrity to critical social problems. In the opinion of the grassroots legislator, the university is insensitive to the political imperatives of the day.

I would respond to (not dignify) such charges by reminding you of the central purpose of the university: to seek the truth, the *real* reality, if you will, in every circumstance and in every age. And, as a historian, I would also remind you that man's past is replete with painful lessons that today's truth is tomorrow's error. This concept of the independence of the university has served our nation enormously well: it has provided us, often indirectly and over a seemingly long period of time, economic, political, social, and intellectual advances that cannot be matched. It will continue to do so with our patience and understanding and, above all, our unwavering commitment to its inherent rightness. It cannot do so if any of us, whether legislator or educator, corrupts it, whether it be in the announced name of the public good or in the unspoken name of political power.

Educators are, I believe, coming out of their Ivory Tower. They are trying to be more accountable, more direct, less inclined to stand up and shout as Samuel Gompers did, "More, More," without justification. They still have a long way to go. Many of them still think of legislators in the terms I began this paper with. This is foolish. Like every other group, educators are not saints or sinners. They are human beings, trying to act out their role as they see it. Educators could stand to do a little educating of themselves and of legislators. They could stop crying wolf every time a budget gets cut. They could stop emphasizing only salary increases. They could be more positive. They could take some time and

bring legislators to the campus when they are not asking for something, when there is not a fire to be fought. I found that legislators are very perceptive people. They know a con job when they see one. And they are most alienated when an arrogant institution cannot supply reasonable information.

As for the political world, we will have to be patient as the educators grow up, as they come to terms with the new reality, namely that they have a desirable partner in the statehouse who also has a role to play in the development of higher education.

As for the legislators, my message may sound equally harsh. In the first place you could start to understand the issues and stop operating from your prejudices. It is frustrating to educators to see momentous decisions being made with so little understanding by the legislators of the issues, the ramifications, or even the facts. You could, as a beginning, start reading some of the material.

Second, you could begin to understand the difference between administration and policy. If you did, you could save yourself some time and energy. In short, stay out of those areas where you do not belong. Good citizens are appointed to protect the institutions' interests. You pay good salaries for administrators and faculties to carry out their functions. So set the general policies; finance them the way you see fit. Then let them carry on. Support them; don't undercut them.

The biggest danger to higher education in this country, in my judgment, is the danger of politicizing the institutions. And the more you intrude in areas you should not be in, the closer you bring that danger of politicizing the institutions. And the more you intrude in areas you should not be in, the closer you bring that danger of politicization to reality. *Don't,* because if you do you will have a different social order as a result.

So let me close with some different portraits of legislators and educators as a result of our examination of some of the issues and a voicing of my own prejudices on these matters.

Educators, it is obvious, are hardworking, underpaid, dedicated, statesman-like, principled, honest, wise, and interested in everyone's welfare.

Legislators are even-handed, dedicated, statesman-like, principled, honest, hard-working, wise, and interested in everyone's welfare.

Well, those portraits don't square with the facts of life either, any more than the ones at the beginning of this chapter. The answer, of course is somewhere in between.

And in between, I hope we find some new understandings; some new sympathies for each other and find some means of building a bond of trust between the two groups who primarily have the same objectives: access, opportunity, equality, and quality. Both the jobs of legislators and educators will have been made easier as a result.

I echo Senator Hughes' (and Representative Jeffers') call for a partnership. It is as Senator Hughes says: you need each other!

Legislators, faculty, administrators and most of all people producing original work concerning higher education must understand the weaknesses of the information they are dealing with or producing.

One of the major weaknesses of information available in the literature is its inability to provide specific answers to the idiosyncratic problems facing legislatures, institutions, and other groups dealing with higher education. Skills must be developed by people in these groups to enable them to retrieve and synthesize information from existing information files so that the best possible solutions are provided based on analyses of this information.

Jonathan D. Fife, Director
ERIC Clearinghouse on Higher Education

Legislators are concerned about the research grant monies sought after and reserved by the universities and colleges. They want to know where the money is coming from and where it is going. Will the grants finance positions and equipment which will later become part of the operating budget of the schools? What delayed commitments may involve for state financing? The legislature would like to funnel the money through the state legislative process so that such questions can be answered.

The Honorable Larry Bahill
Representative, Arizona Legislature